

## **REMARKS**

This amendment is responsive to the Office Action mailed September 24, 2004 in connection with the above-identified patent application. Detailed arguments in support of patentability of claims 1, 3-7, 15-17 and 19-24 are presented, and re-examination is respectfully requested.

### **Allowable Subject Matter**

Claims 25-34 stand allowed and claims 1, 3-7, 15-17, and 19-24 are free of the prior art but are subject to double patenting rejections as summarized below.

### **Drawing Objection**

The drawings were objected to under 37 C.F.R. § 1.83(a). In particular, the Examiner stated that the convoluted outer surface recited in claim 4 must be shown in the drawings or canceled from the claim. A drawing, Fig. 10, is hereby submitted under separate cover. Also, the specification has been amended to reflect the addition of Fig. 10. FIGURE 10 illustrates a filter element having a convoluted outer surface to provide a larger filtering area, as has been recited in the specification. No new subject matter is being added since support is present in the originally filed specification for a filter having a convoluted outer surface. Accordingly, prompt and favorable review of the enclosed amendments to the specification and the enclosed new FIGURE 10 is respectfully requested.

### **The Abstract**

The abstract of the disclosure was objected to because the abstract exceeds 150 words. (MPEP § 608.01(b)). The abstract has been amended to be less than 150 words.

### **The Specification**

The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter. (37 CFR 1.75(d)(1) and MPEP § 608.01(o)). The Examiner stated that the recitation of "said suction source selectively establishing and maintaining an approximately linear suction airstream from said outlet of said cyclonic airflow chamber to said inlet of said airstream suction source" is not found in the

specification. The specification has been amended to mention that an in-line airstream is maintained between the outlet of the dirt cup and the inlet of the airstream suction source and is clearly shown in Figures 6 and 9. Thus, no new matter has been added.

### **Double Patenting Rejections**

Claims 1, 3-7 and 21-24 were rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-7 and 15-17 of U.S. Patent No. 6,070,291 in view of Yonkers (U.S. Patent No. 5,230,722).

Claims 1 and 3-7 of the '291 patent were deemed to recite all of the claimed features of claims 1 and 3-7 of the instant application with exception of a nozzle base on which said housing is pivotally mounted. Yonkers was stated to disclose an upright cyclonic vacuum cleaner that has a housing 14 pivotally mounted to a nozzle base 12 (column 2, lines 50-55). The Examiner concluded that it would have been obvious to modify the vacuum cleaner of the '291 patent to have the housing pivotally mounted to a nozzle base in view of Yonkers.

With respect to claims 21-24, claims 15-17 of the '291 patent were deemed to disclose all the recited subject matter with exception of a nozzle base on which the housing is pivotally mounted. The Examiner again concluded that it would have been obvious to modify the vacuum cleaner of the '291 patent to have the housing pivotally mounted to a nozzle base as in Yonkers.

Claim 1 was rejected under the doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,591,446 in view of Yonkers.

Claim 1 of the '446 patent was deemed to recite all of the claimed features of claim 1 of the instant application with the exception of a nozzle base on which said housing is pivotally mounted. Yonkers was deemed to disclose an upright cyclonic vacuum cleaner that has a housing 14 pivotally mounted to a nozzle base 12 (column 2, lines 50-55). The Examiner asserted it would have been obvious to modify the vacuum cleaner of the '446 patent to have the housing pivotally mounted to a nozzle base in view of Yonkers.

Claim 1 was also rejected under the doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,735,815 in view of Yonkers.

Claim 1 of the '815 patent was deemed to recite all of the claimed features of claim 1 of the instant application with the exception of a nozzle base on which said housing is pivotally mounted. The Examiner stated that it would have been obvious to modify the vacuum cleaner of the '815 patent to have the housing pivotally mounted to a nozzle base in view of Yonkers.

Claims 15-17, 19 and 20 were rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims 15-17, 19 and 20 of U.S. Patent No. 6,070,291 in view of Yonkers.

Claims 15-17 and 19 of the '291 patent were deemed to recite all of the claimed features of claims 15-17, 19 and 20 of the instant application with exception of a nozzle base on which said housing is pivotally mounted, an inlet mounted on a side wall and an outlet parallel to the axis of the housing section. Yonkers was deemed to disclose an upright cyclonic vacuum cleaner that has a housing 14 pivotally mounted to a nozzle base 12 (column 2, lines 50-55), an inlet 86 mounted on a side wall and an outlet 86 parallel to the axis of the housing section. The Examiner stated that it would have been obvious to modify the vacuum cleaner of claim 15 of the '291 patent to have the housing pivotally mounted to a nozzle base in view of Yonkers and to have an inlet mounted on a side wall and an outlet parallel to the axis of the housing section.

In response to the double patenting rejections, the applicants have filed a terminal disclaimer to overcome these rejections. Accordingly, claims 1, 3-7, 15-17 and 19-24 are in condition for allowance and the application is in condition for allowance.

**CONCLUSION**

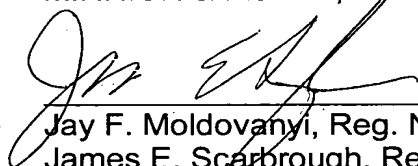
In view of the above amendments and comments, it is respectfully submitted that all pending claims are in condition for allowance.

Allowance of all pending claims and early notice to that effect is respectfully requested.

Respectfully submitted,

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1/24/05  
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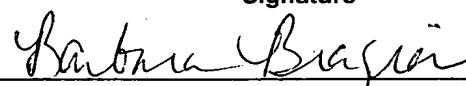
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